sum is necessary to discharge their liabilities to the annuitants?

It may be that, as Lord Macnaghten said in the above case, at page 34, in commenting on the change of language in section 24, sub-section 3, of the Act of 1888, from "payable" to "paid," "so far as interest of money or annuities chargeable under Schedule D are in fact paid out of profits or gains 'brought into charge,' whether in law payable thereout or not, the person who makes the payment and deducts the rate of income tax is not accountable to the Crown for the duty deducted." But it does not appear to me to follow that where the annuities are payable out of profits or gains brought into charge it is necessary to use in paying the annuities the actual moneys received in respect of the profits or gains in order to obtain the benefit of the deduction and retention. In the case of a business like the appellants', and taking into account the language and object of the three Acts, it seems to me that if the annuities are made payable out of the interest, dividends, and rents charged with the tax, it is immaterial whether the money to pay them is taken out of the general till of the company or not, provided that it does not exceed the amount of income on which tax is charged.

I am of opinion that the appeal should be allowed, and the interlocutor of the Lord Ordinary restored, with costs here and in the First Division.

LORD ASHBOURNE—In this case I concur in the opinions which have been delivered by my noble and learned friends.

LORD CHANCELLOR—I agree.

Their Lordships reversed with expenses the order appealed against.

Counsel for the Pursuer (Respondent)—Attorney-General (Sir W. Robson, K.C.)—Lord Advocate (A. Ure, K.C.)—Umpherston. Agents—P. J. Hamilton Grierson, Solicitor of Inland Revenue, Edinburgh—Sir F. C. Gore, Solicitor of Inland Revenue, London.

Counsel for the Defenders (Appellants)—D. F. Scott Dickson, K.C. — Sir R. B. Finlay, K.C. — Macphail. Agents — Mackenzie & Kermack, W.S., Edinburgh—C. Myles Barker, Solicitor, London.

Tuesday, December 14.

(Before the Lord Chancellor (Loreburn), Earl of Halsbury, Lord Atkinson, Lord Gorell, and Lord Shaw.)

KERR *v.* SCREW COLLIER COMPANY, LIMITED.

(In the Court of Session, January 23, 1909, 46 S.L.R. 338, 1909 S.C. 561.)

Ship—Collision at Sea—Narrow Channel—Firth of Forth—Regulations for Preventing Collisions at Sea 1897, *Art.* 25—*Merchant Shipping Act* 1894 (57 *and* 58 *Vict. cap.* 60), *sec.* 418.

"The Forth from the Forth Bridge upwards is a narrow channel in the sense of Article 25 of the Regulations for Preventing Collisions at Sea."

This case is reported *ante ut supra.*

The defenders appealed to the House of Lords against the interlocutor of the First Division reversing the judgment of the Lord Ordinary.

At the conclusion of the argument for the appellants—

LORD CHANCELLOR—I think it is quite clear that this judgment of the First Division ought to be affirmed. It is admitted that the "Prudhoe Castle" was to blame. It is suggested on the part of the "Prudhoe Castle" that the "Ruby" also was to blame in three particulars. In the first place, it is said that she did not keep a proper look-out. I am not sure that that is established, but it certainly is not established that, if it were so, that in any degree contributed to the collision. Then it is said that she ported when green to green, at a wrong time. It was clearly her duty to port at the proper time, and all the evidence taken as a whole seems to me to show that she did so—that she steered a proper course and ported at the right time.

I have only further to observe that this must undoubtedly be regarded as a narrow channel. It seems very strange that there should be any doubt upon the subject, and I hope it will be clearly understood that in the opinion of your Lordships this is a narrow channel.

It is quite unnecessary for me to go through the evidence, which has been most carefully sifted for us by the Dean of Faculty, because I agree with the criticisms and the judgment of the Lord President, and I cannot really usefully add anything upon the details to the opinions of the learned Judges.

EARL OF HALSBURY—I concur with what the Lord Chancellor has said.

LORD GORELL—I concur with what has been said by my noble and learned friend on the Woolsack.

I would only like to add this remark from my own point of view. I think it is perfectly clear that the collision occurred in a narrow channel, and that it occurred on the north side of that channel, and

then, when one finds that the "Prudhoe Castle," the down-coming vessel, was on her wrong side of the channel at the time of the collision, under a starboard helm, it is very difficult indeed to see how the primary blame of this collision should have been other than on the part of that vessel.

Turning to the other ship, the "Ruby," she would in her ordinary course come round the island with the lighthouse of which we have heard, and following that course would naturally get, if she followed it in the ordinary and proper way, to about the spot where this collision happened. In these circumstances it seems to me extremely difficult to impute any blame to her; and I agree with what the learned Lord President has said, that she ought to be exonerated entirely.

LORD ATKINSON—I concur with what the Lord Chancellor and my noble and learned friend opposite (Lord Gorell) have said.

LORD SHAW OF DUNFERMLINE—I concur in the judgments of the Lord Chancellor and Lord Gorell.

In this case the learned Lord President in giving judgment used the following language—"I propose that your Lordships should lay it down so as to leave no doubt in future—and in this matter I am agreed with the judgment which Lord Salvesen originally pronounced—that the Forth from the Forth Bridge upwards is a narrow channel." I am glad that that authoritative pronouncement of the Court of Session has received the sanction of this House, and I agree with my noble and learned friend on the Woolsack in hoping that that will be taken stock of by all concerned.

Their Lordships dismissed the appeal with expenses.

Counsel for the Pursuer (Respondent)—W. T. Watson—Carmont. Agents—Beveridge, Sutherland, & Smith, S.S.C., Edinburgh—Botterell & Roche, London.

Counsel for the Defenders (Appellants)—D.-F. Dickson, K.C. — Speus. Agents—Boyd, Jameson, & Young, W.S., Edinburgh —Thomas Cooper & Company, London.

HIGH COURT OF JUSTICIARY.

Tuesday, October 26.

(Before the Lord Justice-Clerk and a Jury.)

J. & P. COATS, LIMITED *v.* BROWN.

(Reported *ante*, vol. 46, p. 643, 1909 S.C. (J.) 29.)

Justiciary Cases—Crime—Falsehood, Fraud and Wilful Imposition—Contract—Coal —Certificate of Origin Known to be False Given by Seller to Purchaser—Pecuniary Profit

A coal merchant contracted to supply a manufacturer with coal of a specified colliery. In implement of the contract he supplied coal from the same district and of the same general class but taken from other collieries, and he delivered to the purchaser a certificate, obtained from the manager of the specified colliery in exchange for the certificates of the other collieries, certifying that the coal was that of the specified colliery. The difference in price between the coal specified and that actually supplied was but slight. There was contrary evidence as to the comparative usefulness of the coal supplied. *Held* (*per* the Lord Justice-Clerk, in charging the jury) that the crime of "falsehood, fraud, and wilful imposition" would be established if it were proved that the accused, knowing the certificate to be false, issued it intending it to be believed, and with the serious purpose of obtaining an advantage in some way, although that advantage might not be a pecuniary one; and that quite irrespective of what the results of his conduct actually were.

This case is reported *ante ut supra.*

David Brown, coal exporter, Glasgow, was charged, on criminal letters obtained against him at the instance of J. & P. Coats, Limited, with falsehood, fraud, and wilful imposition.

The criminal letters set forth that the accused, in implement of a contract whereby he undertook to supply J. & P. Coats, Limited, with a quantity of Bent Splint Coal, knowingly supplied coal of other collieries, and further delivered therewith a false certificate to the effect that the coal supplied was of the description specified in the contract, and in respect thereof received payment from J. & P. Coats Limited.

The *terms* of the *criminal letters* more fully appear in the previous report of the case referred to above.

The *facts* of the case as disclosed by the evidence at the trial appear from the charge to the jury.

In charging the jury—

LORD JUSTICE-CLERK—. . . Now, gentlemen, let me shortly recapitulate to you the facts of the case as they appear to be brought out in the evidence, because, of course, counsel, necessarily speaking from opposite sides in giving their addresses, press a good deal one way and another, and it is perhaps wise that the Bench should offer a calmer statement of what the facts of the case are. Messrs Coats desired to have a cargo of coal, amounting to a considerable number of tons, which they stipulated should be Bent Splint coal. The meaning of that is that it was to be coal from the Bent Colliery. I shall say something afterwards as to the question as to whether it should be out of the Bent Colliery or not, but that was what the contract stipulated for, and that was what Mr Brown, acting for his firm, undertook to supply. In ordinary circumstances it would be a breach of contract to supply anything else. Mr Brown went to the person with whom he had a contract for